

APPEAL NO. 020632
FILED APRIL 29, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 31, 2001. The hearing officer determined that the appellant (claimant) reached maximum medical improvement on October 18, 2000, with an 11% impairment rating. On appeal, the claimant expresses disagreement with these determinations. The respondent (carrier) urges that the appeal was not filed timely and, therefore, should be dismissed.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) reflect that on November 6, 2001, the hearing officer's decision was mailed to the claimant at the same address given as a return address on the envelope containing the appeal. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days, excluding Saturdays, Sundays, and holidays listed in the Texas Government Code, of the date of receipt of the hearing officer's decision. Applying Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)) and Section 410.202, the claimant was deemed to have received the hearing officer's decision on November 12, 2001, and the deadline for the claimant to file an appeal was December 4, 2001. The envelope containing the claimant's appeal reflects that it was mailed on March 15, 2002, approximately three months after the deadline for filing an appeal.

The claimant's request for review indicates that he received the hearing officer's decision and order on February 21, 2002. In Texas Workers' Compensation Commission Appeal No. 94117, decided March 3, 1994, we stated "[w]here Commission records show distribution on a particular day to the address confirmed by the claimant as being accurate, a mere statement that the decision was not received in the mail is not sufficient to extend the date of receipt past the deemed date of [receipt established by Rule 102.5(d)]." In the present case, the claimant gives no explanation as to why he received the hearing officer's decision approximately three months after it was mailed. The claimant's unexplained statement that he did not receive the decision until February 21, 2002, is insufficient to extend the period for filing a timely appeal.

Because the claimant's appeal was not timely filed, the hearing officer's decision and order have become final pursuant to Section 410.169 and Rule 142.16(f).

The true corporate name of the carrier is **HIGHLANDS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAMES W. HOOKER
HIGHLANDS INSURANCE GROUP
10370 RICHMOND AVENUE
HOUSTON, TEXAS 77042.**

Chris Cowan
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge